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SENATE BILL 2215

By Miller J

AN ACT to amend Tennessee Code Annotated, Title 69, relative to surface water drainage.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 69, is amended by adding Sections 2 through 4 of this act as a new Chapter 4.

SECTION 2. Except as provided in Title 69, Chapter 12, any real property owner or other person who intentionally, willfully, knowingly, recklessly, or negligently engages in any modification of natural surface water drainage by obstructing, modifying, diverting, damming, deflecting, blocking, allowing or placing junk or debris deposits, rerouting, or restraining volume and flow, that changes the natural drainage or causes a concentrated flow in unnatural quantities, so as to interfere with and change the natural flow of surface water, resulting in any unsafe condition, nuisance, physical harm to real or personal property, injury or damage to any other real or personal property, either public or private, including but not limited to easements and public rights-of-way including state and county highway systems, shall be liable for such conduct as provided in Section 3 of this act, in addition to any other remedies available at law or in equity.

SECTION 3. Upon petition by a real property owner affected by such violation, the county highway department, or the county planning commission, and subject to approval of the county commission, any county shall have standing to bring an action for violation of Section 2 of this act, provided that all or any portion of the real property involved or affected by a violation of Section 2 of this act is located in that county. Such county is authorized to seek any of the remedies provided in Sections 69-12-120 -- 69-12-122. Damages that may be recovered include, in addition to damages otherwise available by statute or at common law, reasonable costs for engineering, labor, materials, and use of equipment in repairs and restorations of the real property. The commissioner of environment and conservation, the commissioner's duly authorized representatives, and in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner, shall also have authority and standing to exercise the powers otherwise granted under this act to remedy a violation of Section 2 of this act.

SECTION 4. The highway department of any county in which real property is located upon which a violation of Section 2 of this act occurs shall have authority to remedy any violation of that section and to recover from the person or persons violating that section all costs related to removal, reconstruction, and repair of that property.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.